

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO. 5:08-CV-00464-H**

| | |
|---------------------------------|---|
| NATIONAL GENETICS INSTITUTE and |) |
| BAXTER INTERNATIONAL, INC. |) |
| |) |
| Plaintiffs, |) |
| |) |
| v. |) |
| |) |
| TALECRIS BIOTHERAPEUTICS, INC. |) |
| |) |
| Defendant. |) |

**DEFENDANT TALECRIS BIOTHERAPEUTICS, INC.'S
OCTOBER 1, 2009 STATUS REPORT**

Pursuant to the Court's January 30, 2009 Order, Defendant Talecris Biotherapeutics, Inc. ("Talecris") hereby provides the Court with this Status Report concerning the pending reexamination of U.S. Patent Nos. 6,566,052 (the '052 patent), 6,063,563 (the '563 patent), and 5,780,222 (the '222 patent), the patents-in-suit in the above-captioned litigation. In connection with this Report, Talecris states as follows:

Talecris filed a request for *ex parte* reexamination of the '052, '563 and '222 patents on November 7, 2008. The Patent Office issued an Order Granting Request for *Ex Parte* Reexamination on December 17, 2008 in each of the three patents-in-suit.

On February 19, 2009, the Patent Office issued non-final office actions in each of the three pending reexamination cases rejecting all of the claims in the patents-in-suit. The Patent Owner filed a response and supplemental response to these office actions on April 20, 2009 and May 14, 2009, respectively.

On July 7, 2009, the Patent Office issued a Notice of Intent to Issue Reexamination Certificate for the '052 and '563 patents. On July 9, 2009, the Patent Office

issued a Notice of Intent to Issue Reexamination Certificate for the '222 patent. The Patent Office confirmed all of the claims in the '052, '563 and '222 patents without modification. The Patent Office has not yet issued Reexamination Certificates for any of the patents.

Respectfully submitted this 1st day of October, 2009.

/s/ Michael E. Ray

Michael E. Ray (NCSB No. 8480)
Jacob S. Wharton (NCSB No. 37421)
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
One West Fourth Street
Winston-Salem, NC 27101
Telephone: 336-721-3648
Facsimile: 336-773-8312
mray@wcsr.com
jwharton@wcsr.com

Michael A. Schlanger
George F. Pappas
Paul J. Berman
COVINGTON & BURLING LLP
1201 Pennsylvania Avenue, NW
Washington, D.C. 20004-2401
Telephone: 202-662-6000
Facsimile: 202-662-6291
mschlanger@cov.com
pberman@cov.com
gpappas@cov.com
scalland@cov.com

Counsel for Defendant Talecris Biotherapeutics, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is an attorney at law licensed to practice in the State of North Carolina, is an attorney for Defendant Talecris Biotherapeutics, Inc., and is a person of such age and discretion as to be competent to serve process.

That on October 1, 2009 he served copies of the attached **DEFENDANT TALECRIS BIOTHERAPEUTICS, INC.'S OCTOBER 1, 2009 STATUS REPORT** in the manner stated below.

Via Electronic Service:

Kenneth H. Sonnenfeld, Ph.D.
King & Spalding, LLP
1185 Avenue of the Americas
New York, NY 10036
Telephone: 212-556-2324
Facsimile: 212-556-2222
ksonnenfeld@kslaw.com

*Counsel for Plaintiff Baxter
International, Inc.*

Hayden J. Silver, III
Kilpatrick Stockton, LLP
3737 Glenwood Ave.
Suite 400
Raleigh, NC 27612
Telephone: 919-420-1700
Facsimile: 919-420-1800
JaySilver@kilpatrickstockton.com

*Counsel for Plaintiff National Genetics
Institute*

William Owen Lewis Hutchinson
King & Spalding, LLP
One Morrocroft Centre, Suite 200
6805 Morrison Blvd.
Charlotte, NC 28211
Telephone: 704-305-2563
Facsimile: 704-305-2622
whutchinson@kslaw.com

Counsel for Plaintiff Baxter International, Inc.

Danielle Thompson Williams
Kilpatrick Stockton, LLP
1001 West 4th St.
Winston-Salem, NC 27101
Telephone: 336-607-7306
Facsimile: 336-734-2616
dtwilliams@kilpatrickstockton.com

*Counsel for Plaintiff National Genetics
Institute*

/s/ Michael E. Ray
Michael E. Ray (NCSB No. 8480)
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
One West Fourth Street
Winston-Salem, NC 27101
Telephone: 336-721-3648
Facsimile: 336-773-8312
mray@wcsr.com

Counsel for Defendant Talecris Biotherapeutics, Inc.